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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Initial reports of States parties due in 1997

Addendum

AZERBAIJAN

[18 December 1998]

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INTRODUCTION

1. This is the first report by the Government of the Azerbaijan Republic to the Committee against Torture, prepared and submitted in accordance with article 19, paragraph 1, of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted on 10 December 1984.

2. The initial report discusses the legislative, administrative, judicial and other measures taken by Azerbaijan to give effect to the Convention.

3. The report on the implementation of the Convention has been compiled by a working group established pursuant to Presidential Order No. 873 of 19 August 1998. It is based on information provided by the Supreme Court, the Office of the Procurator of the Republic, the Ministry of Justice, the Ministry of Internal Affairs, the Ministry of National Security, the Ministry of Labour and Social Welfare, other competent State authorities and non-governmental organizations (NGOs).

I. GENERAL INFORMATION

4. The Azerbaijan Republic acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted at New York by General Assembly resolution 39/46 of 10 December 1984 and entering into force on 26 June 1987 in accordance with article 27 (1) (hereafter referred to as "the Convention"), by virtue of the adoption of Act No. 103-IQ by the Milli Mejlis (Parliament) of the Azerbaijan Republic on 31 May 1996. The Act was signed into law by the President.

5. The instrument of accession to the Convention (No. 108 dated 5 July 1996) was signed by the Minister for Foreign Affairs and deposited with the Secretary-General of the United Nations.

6. The Convention came into force in the Azerbaijan Republic on 15 September 1996.

7. Azerbaijan has thus completed all the formalities stipulated by international and internal law.

8. Article 12, paragraph 1, of the Constitution of the Azerbaijan Republic (hereafter referred to as "the Constitution"), which was adopted on 12 November 1995 and entered into force on 27 November the same year, establishes that the supreme purpose of the State shall be "to safeguard human and civil rights and freedoms".

9. Paragraph 2 of the same article states that "the human and civil rights and freedoms enumerated in this Constitution shall be exercised in accordance with the international agreements to which the Azerbaijan Republic is a party".

10. Article 7, paragraph 2, establishes that "in internal matters, State power in the Azerbaijan Republic is limited by the law alone, and in external matters, solely by the international agreements to which the Azerbaijan Republic is a party".

11. Article 148, paragraph 2, of the Constitution states that "international agreements to which the Azerbaijan Republic is a party are an integral part of the legal system of the Azerbaijan Republic"; accordingly, article 151 stipulates that "when inconsistencies arise between regulatory instruments within the legal system of the Azerbaijan Republic (excluding the Constitution of the Azerbaijan Republic and instruments adopted by referendum) and international agreements to which the Azerbaijan Republic is a party, the international agreements shall apply".

12. In conformity with the principle enshrined in article 5 of the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on 10 December 1948, that "no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment", Azerbaijan has acceded to, and thereby assumed commitments under, a number of international human rights instruments, notably the following instrument which forbids torture and similar forms of treatment:

- The International Covenant on Civil and Political Rights, adopted by the General Assembly at New York on 16 December 1966, to which Azerbaijan acceded by virtue of Decision No. 227 of the Milli Mejlis (Parliament) dated 21 July 1992. Article 7 of the Covenant stipulates that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation".

II. INFORMATION RELATING TO EACH OF THE ARTICLES IN PART I OF THE CONVENTION

ARTICLE 1

Definition of torture

13. Article 1, paragraph 1, of the Convention defines "torture" as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions".

14. Article 1, paragraph 1, of the Convention does not stipulate that State parties should take any specific measures.

15. The purpose of article 1, paragraph 1, is essentially to define "torture" for the purposes of the Convention by specifying which acts fall within its scope.

16. At the present time Azerbaijani internal law does not contain a definition of "torture" such as provided for in article 1, paragraph 1, of the Convention.

17. It should be noted that, in accordance with the Constitution and the status of international legal instruments in Azerbaijani internal law, the definition of "torture" in the Convention should be regarded as having been incorporated into Azerbaijani internal law from the moment the Convention entered into force in Azerbaijan.

18. The current Criminal Code of the Azerbaijan Republic does not explicitly make torture, in the context in which the term is defined in the Convention, a criminal offence.

19. Nevertheless, certain articles of the Criminal Code do refer to acts and circumstances constituting offences that encompass the notion of "torture" as defined in the Convention, namely compulsory expropriation of property (art. 93-6), provocation resulting in suicide (art. 100), death threats (art. 101), criminal infliction of bodily harm (arts. 102, 105, 106), beatings and systematic violence (art. 108), unlawful imprisonment (art. 120), unlawful committal to a psychiatric hospital (art. 120-2), abuse of authority or official position (art. 167), action ultra vires (art. 168), prosecution of a party known to be innocent (art. 174), handing down a judgement, decision, finding or ruling known to be wrongful (art. 175), intimidation of a judge or a people's assessor (art. 175-2), knowingly unlawful arrest or detention (art. 176), coercion to testify (art. 177), coercion or bribery of accused persons, witnesses, victims, experts or interpreters (art. 180), abuse of authority, action ultra vires or inaction by the authorities (art. 255), and mistreatment of prisoners of war (art. 263).

ARTICLE 2

Legislative, administrative, judicial and other measures

20. *Each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.*

21. The Constitutional Act on the State Independence of the Azerbaijan Republic proclaimed that on 28 May 1918 the National Council of the Azerbaijan Republic had passed the Declaration of Independence, thereby reviving the Azerbaijani people's centuries-old traditions of statehood.

22. During that period Azerbaijan enjoyed complete political authority within its territory and pursued independent foreign and domestic policies. Institutions characteristic of an independent State - the parliament, Government, army and financial system - were created and began to function.

23. The Azerbaijan Republic was recognized by many foreign States and established diplomatic relations with them.

24. On 27 and 28 April 1920, in flagrant violation of international law, Soviet Russia, without declaring war, moved army units into Azerbaijan and occupied the territory of the sovereign republic.

25. The occupying power used force to overthrow the lawfully elected government bodies and put an end to the independence won at the cost of enormous sacrifices by the Azerbaijani people.

26. The Treaty on the Formation of the Union of Soviet Socialist Republics of 30 December 1922 was designed to consolidate this annexation.

27. The outcome of the Azerbaijani nation's struggle for an independent State was the Declaration on the Re-establishment of the State Independence of the Azerbaijan Republic, passed by the Supreme Soviet of the Azerbaijan Republic on 30 August 1991, and the Constitutional Act on the State Independence of the Azerbaijan Republic passed on 8 October 1991.

28. Following the re-establishment of independence, Azerbaijan adopted its Constitution by referendum on 12 November 1995; it is currently a party to 116 international conventions.

29. In the Constitution, the Azerbaijani nation proclaimed its intention to safeguard the democratic system, establish a civil society, and build a secular law-based State that guaranteed the rule of law while preserving a commitment to universal human values.

30. To achieve these goals, Azerbaijan has been working consistently to establish a statutory framework based on the universal human values deriving from its international obligations and on the experience of developed countries.

31. Articles 48 and 158 of the Constitution are concerned with safeguarding the fundamental human and civil rights and freedoms which article 12, paragraph 1, defines as the supreme purpose of the State.

32. The Constitution enshrines at the highest legislative level the basic provisions for the protection of human and civil rights. These provide the basis for the measures the Azerbaijani authorities are taking to prevent torture and other illegal acts as defined under article 1, paragraph 1, of the Convention.

33. In accordance with article 24, paragraph 1, of the Constitution, "everyone is from birth endowed with inviolable, indefeasible and inalienable rights and freedoms".

34. Article 26, paragraph 2, of the Constitution safeguards fundamental human and civil rights and freedoms by stipulating that "the State shall protect the rights and freedoms of everyone".

35. Article 31 of the Constitution prohibits encroachment on anyone's right to life, physical and mental health, property or home, and outlaws the use of force except as provided for by law.

36. Article 32, paragraph 1, of the Constitution stipulates that "everyone shall have the right to personal inviolability".

37. By adopting a new independent Constitution, the Azerbaijani nation has taken effective legislative measures to prevent torture in pursuance of its international obligations, and specifically the Convention. These measures are to be found in article 46 of the Constitution, which establishes that "everyone has the right to protect his honour and dignity. The State shall safeguard personal dignity. Nothing shall justify degradation of the individual. No one shall be tortured or humiliated. No one shall be subjected to degrading treatment or punishment. No one shall be subjected to medical, scientific or other experimentation without his free consent".

38. Article 66 of the Constitution states that "No one shall be compelled to testify against himself or his (her) spouse, children, parents, brother or sister. A full list of relatives against whom there shall be no requirement to testify shall be established by law".

39. Article 71, paragraph 7, of the Constitution stipulates that "disputes concerning human and civil rights and freedoms shall be settled in the courts".

40. In this connection, article 125 of the Constitution establishes that "judicial power in the Azerbaijan Republic shall be exercised solely through the courts. Judicial power shall be exercised by means of Constitutional, civil and criminal proceedings and in other forms provided for by law. The Office of the Procurator of the Azerbaijan Republic shall collaborate in the administration of justice, except in the case of Constitutional proceedings. The organization and procedure of the courts shall be established by law. The use of legal devices not provided for by law to modify the powers of the courts, and the establishment of special courts, are prohibited".

41. The judicial authorities of the Azerbaijan Republic operate within the confines established by the law, in accordance with the Constitution.

42. Anyone is entitled to seek the assistance of the courts when a State official or other person acting in an official capacity attempts to infringe an individual's legally protected rights and freedoms.

43. The Presidential Decree of 22 February 1998, Measures to Safeguard Human and Civil Rights and Freedoms, has continued the consolidation of these Constitutional provisions in legislation.

44. The objective of the Decree is to continue to promote human and civil rights and freedoms, consider the possibility of examining and submitting to the President proposals for Azerbaijan's accession to the United Nations human rights conventions and other actions in this field.

45. Further to the objectives of the Decree, on 18 June 1998 the President signed a supplementary Decree entitled "The State Programme for the Protection of Human Rights".

46. The State Programme makes provision for Azerbaijan's accession to international human rights conventions, the establishment of research institutes in this field, full alignment of regulatory instruments with international human rights standards, further development of cooperation with international human rights organizations, and other relevant measures.

47. Here, in addition to the Constitution and international agreements, account should be taken of the language in the Criminal Code making torture a crime, prescribing appropriate punishment, and establishing the remedies to which victims are entitled (a more detailed account of these is given in paragraphs 95-131 of this report).

48. In keeping with the thrust of criminal law, as stated in article 20 of the Criminal Code, the purpose of punishment is not simply to penalize wrongdoing but also to reform and re-educate criminals and to prevent the commission of further crimes, whether by convicted criminals or by others.

49. Azerbaijani criminal law further stipulates that punishment is not intended to cause physical suffering or degrade the individual.

50. According to article 1 of the Corrective Labour Code, the purpose of Azerbaijan's corrective labour laws is to enforce sentences for crimes. The article goes on to state that "the enforcement of sentences is not intended to cause physical suffering or degrade the individual".

51. Since the Constitution stipulates that the individual's right to physical and mental inviolability is an absolute right safeguarded by the State, mention should also be made of the Public Health Protection Act of 26 June 1997.

52. This Act lays down the following basic principles governing the protection of public health:

- State protection of citizens' rights in the field of health care and consequent liability attaching to legal persons and individuals;
- A policy of preventive medical care;
- Universally-available medical assistance;
- Social security for people in failing health.

53. To give effect to these principles, article 52 of the Act stipulates that "persons graduating from higher medical training institutions in Azerbaijan with a medical diploma shall take the Hippocratic oath. Physicians who violate this oath shall be liable under the procedure established by Azerbaijani law".

54. Article 57 of the Act provides that "in the event of injury to health, the parties responsible shall be obliged to make restitution under the procedure and to the extent provided for by law. Such restitution shall not relieve medical workers of disciplinary, administrative or criminal liability under the law".

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r to article 46, paragraph 3, of the Constitution, which
hat "no one shall be subjected to medical, scientific or other
ion without his free consent", article 37 of the Act establishes

"Due regard being had to the results of laboratory experiments,
and non-State medical institutions shall be authorized to conduct
lical research. Individuals may be enlisted for biomedical
rch only with their prior consent.

"When such consent is given, a citizen must be informed of the
se, side effects, degree of possible risk, duration and results of
esearch.

"Regardless of the stage the research has reached, a citizen shall
the right to withdraw at any time.

"The advertisement in the mass media of treatments, preventive
h care, diagnostic services or medicines which have not been
rly evaluated is prohibited."

le 40, paragraph 2, of the Act prohibits coercion into providing
transplantation.

dition, chapter 4 of the Act contains language governing artificial
n of pregnancy (art. 30), sterilization (art. 31), and in vitro
on and implantation of embryos (chap. 5, art. 29).

ct lays down that these operations may be performed only with the
the person undergoing the procedure.

aijani law includes the legal mechanisms necessary to protect
ainst unlawful acts by officials.

aijani criminal, criminal procedure, administrative and corrective
all contain language prohibiting the use of force, threats or other
ans to obtain testimony from the accused or other parties to
oceedings.

le 133, paragraph 1, of the Constitution establishes that "the
he Procurator of the Azerbaijan Republic shall see to the uniform
enforcement and application of legislation as provided for by law".

*ceptional circumstances whatsoever, whether a state of war or a
ar, internal political instability or any other public emergency,
ked as a justification of torture.*

le 71 of the Constitution establishes:

it is the duty of the legislature, the executive and the judiciary
spect and protect human and civil rights and freedoms as enshrined
e Constitution. No one may limit the exercise of human and civil
s and freedoms. Only in the event of a declaration of war, martial

law or a state of emergency, or of mobilization, may the exercise of human and civil rights and freedoms be partially and temporarily limited, due regard being had for the international obligations of the Azerbaijan Republic. The population shall be given timely notice of the rights and freedoms subject to limitation. No Constitutional provision may be construed as abrogating human and civil rights or freedoms. Human and civil rights are primary rights in the territory of the Azerbaijan Republic.

"Disputes concerning human and civil rights and freedoms shall be settled in the courts. No one may be held liable for an act which was not considered a breach of the law at the time it was committed. If a law passed after a crime has been committed either abolishes or reduces the attendant liability, the new law shall apply."

64. The provisions of article 71 of the Constitution are regulated by the Martial Law Act.

65. Article 7 of the Act stipulates that "action taken upon the introduction of martial law shall entail no limitation of the rights to life, to freedom of thought, conscience and religion, or to recognition at law that are accepted in international law, nor the repeal of prohibitions on torture, slavery, slave trading, or imprisonment merely for failing to fulfil contractual obligations, on any kind of discrimination against individuals or social groups on the grounds of race, nationality, sex, language, political views, or social origin, or on criminal laws making an action a punishable offence or reducing the punishment therefor with retroactive effect".

66. The State of Emergency Act also reinforces Constitutional safeguards of human and civil rights and freedoms.

67. Article 19 of the Act states that "the introduction of a state of emergency shall entail no limitation of the rights to life or to freedom of thought, conscience and religion, and no use of torture, cruel, inhuman or degrading treatment or punishment within the meaning of the International Covenant on Civil and Political Rights and laws of the Azerbaijan Republic consistent therewith".

68. *An order from a superior officer or a public authority may not be invoked in justification of torture.*

69. Azerbaijani law contains the necessary legal mechanisms to protect citizens against unlawful acts by officials.

70. An order from a superior officer or a public authority may not be invoked in justification of torture; moreover, under Azerbaijani law, such acts are crimes and render the perpetrator liable to criminal prosecution.

71. Article 46 of the Constitution establishes that "the State shall safeguard personal dignity. Nothing shall justify degradation of the individual. No one shall be tortured or humiliated. No one shall be subjected to degrading treatment or punishment".

72. In order to protect the individual's Constitutional rights and freedoms, article 60 of the Constitution stipulates that "All shall be guaranteed judicial protection of their rights and freedoms. Everyone shall have the right to challenge in a court of law the decisions and actions (or inaction) of State authorities, political parties, trade unions, and other public associations and officials".

73. To ensure that these provisions are implemented, article 61 of the Constitution stipulates that "everyone has the right to seek qualified legal assistance. Everyone has the right to the assistance of legal counsel the moment he (she) is arrested, detained or charged with a crime by the competent State authorities".

74. To safeguard the rights and freedoms of the individual, article 63 of the Constitution establishes the presumption of innocence, stipulating that "everyone has the right to presumption of innocence. Anyone accused of committing a crime shall be considered innocent until he is proven guilty as specified by law and a court sentence to that effect has become enforceable. In the event of justifiable doubt as to a person's guilt, a judgement of guilty may not be returned. A person charged with a crime shall not be obliged to prove his innocence. Evidence obtained in violation of the law may not be used in the administration of justice. No one may be said to be guilty of a crime in the absence of a court decision."

75. Article 67 of the Constitution states that "Anyone who is arrested, detained or accused of committing a crime by the competent State authorities shall be informed promptly of his rights and the reasons for his arrest, detention or the proceedings against him".

ARTICLE 3

76. *Article 3 of the Convention stipulates that no State Party shall expel, return (refouler) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.*

77. Azerbaijani citizenship is enshrined in article 52 of the Constitution, which states: "Any subject of the Azerbaijani State, having with that State political and legal ties and reciprocal rights and responsibilities, is a citizen of the Azerbaijan Republic. A person born in the Azerbaijan Republic, or to citizens of the Azerbaijan Republic, is a citizen of the Azerbaijan Republic. A person one of whose parents is a citizen of the Azerbaijan Republic is a citizen of the Azerbaijan Republic". Article 53 states that "a citizen of the Azerbaijan Republic may not under any circumstances be deprived of his citizenship. A citizen of the Azerbaijan Republic may not under any circumstances be expelled or extradited to a foreign State. The Azerbaijan Republic shall ensure the legal defence and protection of Azerbaijani citizens residing abroad either temporarily or permanently".

78. Article 70 of the Constitution lays down the basic provisions relating to the granting of and right to asylum, stating that "in accordance with universally recognized norms of international law, the Azerbaijan Republic shall grant political asylum to foreigners and stateless persons. The

extradition to another State of persons persecuted for their political views or acts which are not considered crimes in the Azerbaijan Republic is not permitted".

Extradition

79. The legal arrangements governing extradition in the Azerbaijan Republic are determined by bilateral and multilateral agreements, specifically the Minsk Convention of 22 January 1993 on the provision of judicial assistance and legal relations in civil, family and criminal matters, to which all the former Union Republics of the USSR except the Baltic Republics of Estonia, Latvia and Lithuania are parties.

80. Extradition matters are dealt with under section IV, part 1, articles 56-71, of this Convention.

81. All matters concerning the extradition of citizens, foreigners or stateless persons from Azerbaijan to a requesting State in connection with the commission of a crime are dealt with under the inter-State agreements to which Azerbaijan is a party or, where none exist, on the basis of international legal norms or an understanding relating to the specific request.

82. Under the Minsk Convention, a Contracting Party is obliged, upon request from another party, to extradite persons from its territory so that they may face criminal proceedings or a sentence may be enforced.

83. A person may be extradited to face criminal proceedings in respect of acts which are punishable under the law of both the requesting and requested Parties, and for which the prescribed punishment is a custodial sentence of at least one year or a more serious punishment.

84. A person may be extradited with a view to enforcing a sentence for an act which is punishable under the law of both the requesting and requested States Parties, and for which the person has been sentenced to at least six months' imprisonment or a more serious punishment.

85. No extradition will take place if:

(a) The person concerned is a citizen of the requested Contracting Party;

(b) At the time the request is received, criminal proceedings cannot be brought under the law of the requested Contracting Party, or the sentence cannot be enforced because the time limit for enforcement has been exceeded, or for some other legitimate reason;

(c) The person concerned has been sentenced for the same offence in the territory of the requested Contracting Party, or an enforceable decision has been made to terminate the proceedings;

(d) Under the law of the requesting or requested Contracting Party, the offence is the subject of a private prosecution (pursuant to an application by the victim).

86. Extradition may be refused if the offence in question was committed in the territory of the requested Contracting Party.

87. Upon receipt of an extradition request, the requested Contracting Party shall act promptly to take the person concerned into custody, except in cases where extradition is not permitted.

88. A person whose extradition is being sought may also, upon application, be taken into custody prior to the receipt of an extradition request.

89. The application must cite a custodial order or enforceable sentence, and indicate that the extradition request will be forwarded subsequently.

90. A person taken into custody pending receipt of an extradition request must be released if the said request is not received within one month of his being taken into custody.

91. A person may be taken into custody without an application if, as established by legislation, there are grounds for suspecting that he has committed an offence in the territory of another Contracting Party that would warrant extradition proceedings.

92. If an extradition request is not received during the period of detention provided for by law, the detainee must be released.

93. The other Contracting Party must be notified when a person has been taken into custody or detained pending receipt of an extradition request.

ARTICLE 4

94. *In accordance with article 4 of the Convention, each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.*

95. Azerbaijani criminal law does not contain a specific statutory definition of torture. As indicated above, however (see paragraphs 18-19 of this report), torture, attempted torture, and complicity or participation in similar acts are crimes under the Azerbaijani Criminal Code.

96. Azerbaijani criminal law is based on a clear definition of what constitutes a crime.

97. Azerbaijani national legislation is broader in scope than the Convention.

98. Effective measures to prevent torture as defined in article 1, paragraph 1, of the Convention can be taken by applying a package of provisions in criminal law.

99. Azerbaijani criminal law (article 15 of the Criminal Code) makes it an offence to prepare a crime and to attempt to commit a crime.

100. This article specifies:

"... sorting out or adapting devices or weapons or otherwise intentionally making ready for the commission of an offence shall be considered preparation for an offence. Taking deliberate action with the direct object of committing an offence, the offence not being consummated for reasons beyond the perpetrator's control, shall be considered an attempted offence.

"The punishments for preparation for and attempted offences are laid down in the laws making consummation of the actions concerned a criminal offence.

"In setting sentences, the courts shall take into consideration the nature of the acts committed by the accused and the degree of risk to the public, the degree to which the criminal intent was accomplished and the reasons why the offence was not consummated."

101. Likewise, criminal law makes provision for complicity in a crime, which is defined thus in article 17 of the Criminal Code:

"Deliberate joint participation by two or more persons in the commission of an offence shall be considered complicity.

"Organizers, instigators and accessories shall be considered accomplices to an offence, together with the perpetrators.

"A person who directly commits an offence shall be considered a perpetrator.

"A person who organizes or directs the commission of an offence shall be considered an organizer.

"A person who urges the commission of an offence shall be considered an instigator.

"A person who contributes to the commission of an offence by supplying advice, instructions or equipment, or by removing obstacles, or who gives a prior undertaking to conceal a criminal, evidence of a crime, or the proceeds of crime, shall be considered an accessory.

"The extent and nature of the participation of each accomplice to an offence must be taken into consideration by the court when passing sentence."

102. The Criminal Code permits criminal proceedings to be brought for the acts specified in article 1, paragraph 1, of the Convention when committed by persons in authority.

103. The articles in Azerbaijani criminal law which overlap with the definition of torture given in article 1, paragraph 1, of the Convention (as indicated in paragraph 19 of this report) are examined below.

104. Article 168 of the Criminal Code makes a punishable offence of "action ultra vires, i.e. deliberate action by an official which manifestly exceeds the rights and powers legally invested in him, if that action results in substantial harm to State or public interests or the legally protected rights and interests of citizens, and action ultra vires accompanied by violence, the use of weapons, or treatment intended to torment or cause affront to the victim".

105. Article 100 makes it a punishable offence "to provoke, through cruelty or systematic degradation, a person who is materially or otherwise dependant on the accused into committing suicide or attempting to commit suicide, or to carry out similar acts against a person who is not in any way dependent on the accused."

106. Under article 101, it is a punishable offence "to make death threats when there are genuine grounds for fearing that the threats will be carried out".

107. Article 102 makes it a punishable offence to inflict "deliberate grievous bodily harm, i.e. bodily harm which is life-threatening or results in the loss of an organ or its function, in mental illness or other health problems associated with the permanent loss of at least one third of a person's capacity for work, in termination of pregnancy or in permanent facial disfigurement, or similar conduct resulting in the death of the victim or performed in a manner akin to torment or systematic violence".

108. Article 105 makes it a punishable offence to inflict "deliberate moderate bodily harm, not life-threatening nor having the consequences indicated in article 102, which yet causes a lasting health problem or results in the permanent loss of up to one third of a person's capacity for work".

109. Under article 106, it is a punishable offence to inflict "deliberate actual bodily harm resulting in a temporary health problem or a minor yet persistent loss of capacity for work, [or engage in] similar conduct not having the consequences indicated in paragraph 1 of this article".

110. Article 108 establishes criminal liability for the "wilful infliction of beatings or other violence causing physical pain but not health disorders, if a caution, public reprimand or other public condemnation has previously been handed down for such conduct, and for systematic beatings or other acts akin to systematic violence".

111. Article 120 prescribes punishment for "unlawful detention and detention in a manner which endangers the life or health of the victim, or is accompanied by the infliction of physical suffering".

112. Under article 120, paragraph 2, it is a punishable offence "unlawfully to commit a person known to be sane to a psychiatric hospital".

113. Under Azerbaijani criminal law, official crimes covered by the definition in the Convention are also punishable offences.

114. Thus, in chapter 7 of the Criminal Code (Official crimes), article 167 makes a punishable offence of "abuse of authority or an official position, i.e. the wilful abuse by an official of his position contrary to the interests of his service, if the abuse is for personal gain or personal interest and causes substantial harm to State or public interests or the legally protected rights and interests of citizens".

The acts covered by article 167 are punishable by a custodial sentence of up to five years, deduction of salary at source for up to two years, or dismissal.

The punishment for abuse of authority or official position with serious consequences is a custodial sentence of up to eight years.

115. Azerbaijani criminal law defines officials as persons permanently or temporarily occupying positions associated with managerial or administrative responsibilities in State or public institutions or corporations, or fulfilling such responsibilities in the aforesaid corporations or organizations by special arrangement.

116. Article 168 makes a punishable offence of "action ultra vires, i.e. deliberate action by an official which manifestly exceeds the rights and powers legally invested in him if that action results in substantial harm to State or public interests or the legally protected rights and interests of citizens".

Such acts are punishable by a custodial sentence of up to five years, deduction of salary at source for up to two years, or dismissal.

Action ultra vires accompanied by violence, the use of weapons, or treatment intended to torment or demean the victim is punishable by a custodial sentence of up to seven years.

117. The Criminal Code specifies sentences for offences against justice. These offences are listed in chapter 8, article 174, which specifies the penalty for the "criminal prosecution by a person conducting an initial inquiry, an investigator or a Procurator, for self-seeking or other personal motives, of a party known to be innocent".

Anyone found guilty of such an act is liable to a custodial sentence of up to three years.

Such conduct, associated with an accusation of a particularly dangerous State crime or other serious offence, or with the fabrication of evidence, renders the guilty party liable to a custodial sentence of between 3 and 10 years.

118. Article 175 specifies the punishment for "the handing down by judges, for self-seeking or other personal motives, of a judgement, decision, finding or ruling known to be wrongful"; this crime is punishable by a custodial sentence of between two and five years.

If the consequences of such conduct are serious, the guilty party is liable to a custodial sentence of between 5 and 10 years.

119. Article 175, paragraph 2, protects judges and people's assessors by establishing that "death threats and threats of violence or destruction of property made against a judge, people's assessor or any member of their immediate families in connection with the administration of justice by the said judge or people's assessor shall be punishable by a custodial sentence of up to two years or by deduction of salary at source for a similar period".

120. Likewise, article 176 states that "knowingly unlawful arrest or detention effected for self-seeking or other personal motives shall be punishable by a custodial sentence of up to three years".

121. Article 177 establishes criminal liability for "coercion to testify during interrogation by means of threats or other unlawful methods on the part of the person conducting the initial inquiry or pre-trial investigation, and for similar conduct associated with the use of violence or the humiliation of the person under interrogation".

122. Article 180 makes it a punishable offence to "coerce accused persons, witnesses, victims, experts or interpreters to give false testimony, false conclusions or inaccurate translations by threatening them or their immediate families with death, violence, or destruction of property with a view to perverting the course of justice, or to make such threats in revenge for earlier testimony".

123. The chapter of the Criminal Code dealing with military offences contains articles holding senior officers liable for violence against their subordinates, and for mistreatment of prisoners of war.

124. Article 255, for example, makes a criminal offence of abuse of authority, action ultra vires or inaction by a superior officer, i.e. "(a) abuse of authority or official position, action ultra vires or inaction by a superior officer or official if performed systematically, for self-seeking motives or in pursuit of other personal interests, or resulting in substantial harm; (b) the same conduct when attended by serious consequences, and the conduct referred to in (a) and (b) above when committed in wartime under combat conditions".

125. The same article defines as crimes all acts of violence exhibiting characteristics that conform to the definition of "torture" given in article 1, paragraph 1, of the Convention.

126. Article 263 of the Criminal Code makes a punishable offence of "ill-treatment of prisoners of war, either repeatedly or especially harshly, or of injured and wounded persons, and the negligent discharge of their responsibilities towards injured and wounded persons by those responsible for their treatment and care where there is no evidence of a more serious crime".

127. The article states that "ill-treatment of prisoners of war in the absence of the aggravating circumstances indicated shall entail application of the Disciplinary Regulations of the Armed Forces of the Azerbaijan Republic".

128. Azerbaijani criminal law makes especial cruelty towards or humiliation of victims an aggravating circumstance.

129. Article 37 of the Criminal Code stipulates that, when passing sentence, the following shall be regarded as aggravating circumstances:

1. Existence of a previous criminal record.

   Depending on the nature of the earlier offence, the court may discount this as an aggravating circumstance;

2. Commission of an offence by an organized group;

3. Commission of an offence for personal gain or other base motives;

3.1 Commission of an offence out of ethnic or racial hatred or contempt;

4. Commission of an offence leading to serious consequences;

5. Commission of an offence against a minor, an old person, or a person in a helpless state;

5.1 Commission of an offence against a person performing an official or public duty;

6. Incitement of minors to commit an offence or involvement of minors in the commission of an offence;

7. Commission of an offence involving especial cruelty towards or humiliation of the victim;

8. Commission of an offence taking advantage of a public emergency;

9. Commission of an offence hazardous to the public at large;

10. Commission of a fresh offence while remanded on bail or during the following year;

11. Commission of an offence while in an intoxicated state.

    Depending on the nature of the offence, the court may discount this as an aggravating circumstance.

130. It should be noted that punishment within the meaning of Azerbaijani criminal law, pursuant to article 20 of the Criminal Code and article 1 of the Corrective Labour Code, is intended not only to penalize wrongdoing but also to reform and re-educate criminals and to prevent the commission of further crimes, whether by convicted criminals or by others.

131. Moreover, under criminal law, punishment is not intended to cause physical suffering or degrade the individual.

Statistical breakdown of enforceable sentences in Azerbaijan, first six months of 1998

Sentence and relevant article of Criminal Code	Number of convictions
Art. 102 - Wilfully inflicted grievous bodily harm	120
Art. 105 - Wilfully inflicted moderate bodily harm	171
Art. 106 - Wilfully inflicted actual bodily harm	128
Art. 108 - Beatings and systematic violence	7
Art. 120 - Unlawful imprisonment	1
Art. 177 - Coercion to testify	1
Art. 180 - Coercion or bribery of accused persons, witnesses, victims, experts or interpreters	2
Art. 263 - Ill-treatment of prisoners of war	No data available

ARTICLE 5

132. *Article 5 of the Convention deals with the territorial application of criminal law.*

133. The Azerbaijan Republic has established jurisdiction over the offences and situations referred to in article 4 of the Convention; these matters are covered by legislation, in particular by articles 4 and 5 of the Criminal Code.

134. Under article 4 of the Azerbaijani Criminal Code,

> "... all persons committing offences in the territory of the Azerbaijan Republic shall be subject to criminal proceedings on the basis of this Code.
>
> "The criminal liability of diplomatic representatives of foreign States and other citizens who by virtue of existing laws and international agreements are not subject to prosecution in Azerbaijani courts shall be settled through the diplomatic channel in the event of their committing offences in the territory of the Azerbaijan Republic".

135. Article 5 of the Criminal Code states:

> "Azerbaijani citizens who commit offences outside the Azerbaijan Republic shall be subject to criminal proceedings on the basis of this Code if they are subject to the jurisdiction of, or extradition to, a court in the Azerbaijan Republic.
>
> "Stateless persons in the Azerbaijan Republic who commit offences outside Azerbaijan shall be subject to proceedings on the same premise.

"Where a person has been sentenced abroad for an offence the court may reduce the sentence or completely excuse the accused from serving it in accordance with Azerbaijani criminal law and international legal norms.

"Foreigners who commit offences outside the Azerbaijan Republic shall be subject to proceedings under Azerbaijani criminal law in the circumstances provided for by international agreements.

"Whether foreigners should be extradited from Azerbaijan to a requesting State in connection with the commission of a crime shall be determined under the inter-State agreements to which the Azerbaijan Republic is a party or, where such do not exist, on the basis of international law or an understanding reached on a specific request."

136. In Azerbaijani law, extraterritoriality with regard to the matters raised in the Convention is covered inter alia by the Aviation Code.

137. Article 3 of this Code states:

"... the Aviation Code of the Azerbaijan Republic shall apply to:

"1. All civil aircraft within the borders of the Republic;

"2. All Azerbaijani civil aircraft outside Azerbaijan, unless the law of the country where the aircraft is situated provides otherwise;

"3. Flights by civil aircraft through Azerbaijani airspace.

"Flights by military aircraft shall conform to the rules on flight instructions drawn up and approved by the competent authorities in conjunction with the State civil aviation authority."

138. Article 4 of the Aviation Code establishes that "an aircraft belongs to the State where it is registered".

139. Also with regard to the extraterritorial application of Azerbaijani law, it should be noted that the USSR Code of Merchant Marine is still in force in Azerbaijan.

140. Article 11 of the latter Code states:

"... the regulations in this Code shall apply:

"- To maritime vessels navigating on seas, rivers, lakes, reservoirs and other watercourses, insofar as no ad hoc law or agreement between the Azerbaijan Republic and other States specifies otherwise;

"- To inland navigation vessels travelling on maritime routes, or on rivers, lakes, reservoirs and other watercourses, for the purpose of transporting cargo and putting in at a foreign seaport, or in the circumstances provided for by articles 252 and 260 of this Code".

141. Article 59 of the Code stipulates:

"... in the event that an offence under Azerbaijani law is committed on board a vessel under way in the territory where the vessel's port of registration is situated, the captain shall serve as the authority conducting the initial inquiry, guided in this task by Azerbaijani criminal procedure law and the instructions on the conduct of initial inquiries aboard maritime vessels under way.

"In the event that an offence committed on board a vessel in an Azerbaijani port and the vessel is registered in an Azerbaijani port, the captain shall hand over the culprit to the local authorities."

142. Article 6 of the Criminal Code also has some bearing on the application of extraterritoriality in Azerbaijani law. This article states:

"The criminal nature of, and punishment for, a given act shall be determined by the law in force at the time the act was committed.

"A law that abolishes an offence and the punishment for it, reduces the punishment or otherwise alleviates the position of a person who has committed the offence concerned shall have retroactive effect.

"A law that establishes an offence and punishment for it, stiffens the punishment or otherwise aggravates the position of a person who has committed the offence concerned shall not have retroactive effect."

ARTICLE 6

143. *Article 6 of the Convention provides that any State Party in whose territory a person alleged to have committed any offence under the Convention is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State.*

144. Azerbaijan has separate provisions governing the custody of persons suspected of committing offences under the Convention, depending on whether they are detained for prosecution or extradition purposes.

145. Detention for the purpose of extradition

Azerbaijani criminal law permits detention for the purpose of extradition if there is a provision to that effect in any international convention or treaty in force in the Republic.

146. Extradition is regulated by the bilateral and multilateral treaties to which the Republic is a party, notably the Minsk Convention of 22 January 1993

on the provision of judicial assistance and legal relations in civil, family and criminal matters, to which all the former Republics of the USSR except the Baltic Republics of Latvia, Lithuania and Estonia are parties.

147. Extradition issues are also governed by section IV, part I, articles 56-71, of the Minsk Convention (see above, article 3, paragraphs 79-93).

148. Detention for the purpose of prosecution

Detention for the purpose of criminal prosecution is regulated by articles 28, 61 and 67 of the Constitution and by the Code of Criminal Procedure.

149. Article 28 of the Constitution provides as follows: "Everyone shall have the right to freedom. The right to freedom may be restricted by detention, arrest or imprisonment only as prescribed by law."

150. Everyone, from the moment of being detained, arrested or charged with a crime by the competent organs of the State, has the right to the assistance of defence counsel" (article 61, paragraph 3, of the Constitution).

151. Anyone who is detained, arrested or accused of a crime by the competent State authorities shall be promptly informed of his rights and the reasons for his detention or arrest and the proceedings against him" (article 67 of the Constitution).

152. The authority conducting an initial inquiry may take into custody, before charges are brought, a person suspected of an offence punishable by imprisonment only where one of the following conditions applies:

1. The person has been caught while or directly after committing the offence (in flagrante delicto);

2. Eye-witnesses, including victims, have directly identified that person as the culprit;

3. Clear evidence of the offence is found on the suspect or his clothing, in his possession, or at his home.

Where there are other grounds for suspecting a person of having committed an offence, that person may be detained only if he has tried to escape, he has no permanent place of abode, or his identity cannot be established (article 119 of the Code of Criminal Procedure).

153. Any detention of a suspect must be reported in writing within 24 hours by the authority making the initial inquiry to the Procurator.

Within 48 hours of receiving notification of the detention, the procurator must issue a detention order or release the detainee (article 122 of the Code of Criminal Procedure).

154. Pre-trial detention

Pre-trial detention is governed by chapter 36, section 10, articles 427-445 of the Code of Criminal Procedure (hereafter "the Code").

155. Article 427 of the Code provides as follows: "Pre-trial detention under criminal procedural law is a preventive measure taken against an accused, defendant or suspect in a crime punishable by imprisonment under the law."

156. Azerbaijani legislation on pre-trial detention is designed to establish rules for the holding, in places of pre-trial detention, of persons taken into custody in order to preclude the possibility of their escaping prosecution and trial, obstructing the establishment of the truth in a criminal case, or engaging in criminal activity, or to ensure execution of sentence (article 428 of the Code of Criminal Procedure).

157. Pre-trial detention can be imposed by decision of the investigator or person conducting an initial inquiry with the approval of the procurator; by decision of the procurator; or by a court to apply custody as a preventive measure in accordance with Azerbaijani criminal and criminal procedural law (article 429 of the Code).

158. With reference to article 6, paragraphs 3 and 4, of the Convention, we consider it necessary to point out that under article 93 of the Code of Criminal Procedure, the detention or arrest of foreign nationals and stateless persons must be immediately notified to the appropriate authorities. The Azerbaijan Republic is a party to the Vienna Convention on Consular Relations of 24 April 1963, to which it acceded by decision No. 224 of the Milli Mejlis (Parliament) dated 21 July 1992. Article 36, paragraph 1 (b), of that Convention provides as follows:

> "If he so requests, the competent authorities of the receiving State, shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph."

Paragraph 1 (c) reads:

> "Consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement. Nevertheless consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action."

159. The obligation to notify other States Parties to the Convention of all acts of detention and to report the results of the pre-trial investigation is complied with insofar as it is compatible with obligations deriving, inter alia, from the duty to protect privacy under the Constitution (article 32 on personal inviolability) and international treaties such as the International Covenant on Civil and Political Rights of 19 December 1966.

ARTICLE 7

160. *Pursuant to article 7 of the Convention, in the event of a refusal to extradite, the requesting State must forward all materials necessary in order to institute or continue criminal proceedings against the person in respect of whom the request for extradition was made in connection with the acts which motivated the request.*

161. It follows that if Azerbaijan rejects a request for extradition, it must institute criminal proceedings against the person concerned in accordance with the principle "aut dedere, aut judicare".

162. Under article 72 of the Minsk Convencion of 22 January 1993, each Contracting Party undertakes, at the request of another Contracting Party, to bring criminal proceedings under its laws against any of its citizens suspected of having committed a crime in the territory of the requesting Contracting Party.

163. If the crime in connection with which the action is brought gives rise to civil law claims from individuals who have suffered in consequence, those claims, where there exists a request for compensation, shall be considered as part of the case.

164. The prosecution case and any evidence at the disposal of the requesting Party must be appended to the request for criminal proceedings.

165. Consequently, if Azerbaijan rejects a request for extradition, the Party whose request has been refused can submit a request for criminal proceedings, appending to it the prosecution case and evidence, and Azerbaijan will be obliged to initiate criminal proceedings against one of its own citizens.

166. In such a case, the procedural rights of the accused as guaranteed by the Constitution and the law are fully respected. The Convention requires no exception to the general rules in force in this area.

167. Under article 3 of the Code of Criminal Procedure, the judge, the procurator, the investigator and entity conducting the initial inquiry are obliged, within the limits of their competence, to bring a criminal action whenever indicia of a crime are found; to do everything the law requires to establish what actually took place; and to identify and punish the culprits.

168. The language governing the institution of criminal proceedings is to be found in section 2, chapter 10, of the Code of Criminal Procedure.

169. Under article 133 of the Constitution and article 41 of the Code of Criminal Procedure, the Office of the Procurator, as prescribed by law, sees to the uniform and proper enforcement and application of the law; institutes criminal proceedings and conducts inquiries as specified by law; supports the prosecution in court; and enters objections to court decisions.

170. That the obligations set forth in article 7, paragraphs 2 and 3, of the Convention will be respected is guaranteed by the requirement of equality set forth in article 25 of the Constitution ("Everyone shall be equal before the law and the courts").

ARTICLE 8

171. *According to article 8 of the Convention, the crimes involving torture referred to in article 4 of the Convention must be included [as extraditable offences] in any extradition treaty existing or to be concluded between States Parties.*

172. As already stated in connection with article 3 of the Convention, extradition arrangements are regulated in Azerbaijan by articles 53 and 70 of the Constitution and by the bilateral and multilateral treaties to which Azerbaijan is a party (for more detail, see paragraphs 77-93 of this report).

173. The acts referred to in the Convention are not deemed to be political crimes.

174. In the light of its national law and international obligations under the Convention, Azerbaijan may be said to comply with article 8, paragraphs 3 and 4, of the Convention.

ARTICLE 9

175. *Article 9 of the Convention provides for international judicial assistance in matters of criminal law.*

176. As pointed out in connection with the question of extradition, international judicial assistance in matters of criminal law is regulated by treaties between States (for more detail, see paragraphs 77-93 on article 3 and paragraphs 159-164 on article 7).

177. It should be noted that Azerbaijan has to date concluded the following treaties which provide for the widest possible cooperation in criminal proceedings:

1. Treaties with the Russian Federation on legal assistance and legal relations in civil, family and criminal cases, and on the transfer of convicted persons to serve their terms of punishment;

2. A treaty with Ukraine on the transfer of convicted persons to serve their terms of punishment;

3. A treaty with Georgia on legal assistance and legal relations in civil, family and criminal cases;

4. Treaties with Kazakhstan on legal assistance and legal relations in civil law cases, and on the transfer of convicted persons to serve their terms of punishment;

5. Treaties with Uzbekistan on legal assistance and legal relations in civil, family and criminal cases, and on the transfer of convicted persons to serve their terms of punishment;

6. Treaties with Kyrgystan on legal assistance and legal relations in civil, family and criminal cases, and on the transfer of convicted persons to serve their terms of punishment;

7. A treaty with Turkey on mutual assistance and legal relations in matters of civil, trade and criminal law;

8. Treaties with Bulgaria on extradition and on legal assistance in criminal cases;

9. Treaties with the Islamic Republic of Iran on extradition, on the transfer of convicted persons to serve their terms of punishment, and on legal assistance.

178. Azerbaijan has also acceded to the Convention on the provision of judicial assistance and legal relations in civil, family and criminal matters signed at Minsk on 22 January 1993.

179. The Ministry of Justice is currently working on similar treaties with other States.

180. Azerbaijan can thus be said to comply with its obligation under the Convention to afford "the greatest measure of assistance" to other States Parties in accordance with existing treaties on mutual judicial assistance.

ARTICLE 10

181. *Article 10 of the Convention requires each State Party to include education and information regarding the prohibition against torture in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.*

182. Professional training, information and alerting the public to the problem of torture and other cruel, inhuman or degrading forms of treatment are of the greatest importance in the effective prevention of such practices.

183. In Azerbaijan, persons training for the relevant professions are instructed in the prohibition against torture.

184. A variety of institutions engaged in publishing, public information, training and education in the field of human rights also seek to draw public attention to this problem.

185. Mention should be made here of the important contribution by the President of the Republic in the field of public information on human rights.

186. On 16 April 1998, the President signed an order on the commemoration in the Azerbaijan Republic of the fiftieth anniversary of the Universal Declaration of Human Rights.

187. Pursuant to that order, Azerbaijan is planning seminars on human rights for representatives of non-governmental organizations and the mass media; television and radio broadcasts on the protection of human rights; textbooks on human rights for higher and secondary educational establishments; the circulation over the Internet of information on human rights in Azerbaijan; and other measures.

188. It should be noted that special courses on the observance of human rights and freedoms in the work of law enforcement agencies have been developed and are being taught, and international documents on the subject are being studied, at training establishments run by the Ministry of Internal Affairs as part of the service training system.

189. In training syllabuses for members of the police, special attention is devoted to the need for humane treatment of suspects and detainees.

190. The Ministry of Internal Affairs now has its own university-level academy, the Police Academy, to train police officers and provide courses for high-level command and administrative staff as well as for retraining and professional upgrading of staff who have completed only their basic education. In the syllabuses for such courses, especially in subjects such as law, the humanities and professional ethics, the topics of human rights and other fundamental rights, freedoms and guarantees are given pride of place.

191. Special services operate within the Ministry of Internal Affairs to monitor compliance with the law and service discipline.

192. Threats, violence or other illegal acts degrading to accused persons and others render the staff responsible subject to disciplinary proceedings.

193. Where such conduct is tantamount to a criminal offence, the matter is investigated and referred to the courts.

ARTICLE 11

194. *Article 11 of the Convention provides that each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.*

195. Under Azerbaijani law, the use of torture is punishable under criminal or disciplinary procedures. Compliance with legal standards is monitored in an effective and purpose-oriented manner by a variety of institutions.

196. The right to bring complaints

Under article 60 of the Constitution, all persons are guaranteed judicial protection of their rights and freedoms. Everyone has the right to challenge in a court of law the decisions and actions (or inaction) of State authorities, political parties, trade unions, and other public associations and officials.

197. Pursuant to these Constitutional provisions, the Citizens' Applications (procedure for consideration) Act of 10 June 1997 provides in article 5 that government authorities, institutions, organizations and enterprises must, in accordance with procedures defined by the Constitution and the law, ensure that Azerbaijani citizens are able to exercise their right to submit proposals orally or in writing and to lodge applications or bring complaints against incorrect actions (or lack of action) on the part of officials.

198. The Corrective Labour Code contains language governing how individuals are to be kept and treated while under arrest, in detention or in prison.

199. Article 1 of the Code establishes that the purpose of corrective labour legislation is to ensure that criminal penalties do not merely penalize wrongdoing but also reform and re-educate criminals.

200. Procedures and conditions governing the serving of sentence, the imposition of corrective labour on persons sentenced to imprisonment, exile, deportation or deduction of salary at source without imprisonment, the activities of establishments and authorities responsible for the execution of such sentences, and the part played by society in the correction and re-education of convicted persons, are set forth in the Corrective Labour Code and other laws (article 2 of the Code).

201. Only a court sentence which has duly entered into force constitutes grounds for the execution of a criminal penalty or the imposition of corrective labour (article 4 of the Code).

202. At the same time, article 131 of the Code provides that "cruel, inhuman or degrading conduct, or failure to take appropriate steps against such conduct, is incompatible with employment in the penitentiary service".

203. Furthermore, the Code specifies that the staff of corrective labour establishments shall be held answerable for their actions. Article 132 states: "A member of the staff of a corrective labour establishment who commits or condones cruel, inhuman or degrading acts shall be held criminally and administratively liable under Azerbaijani law. If administrative steps have previously been taken against a staff member for conduct of this kind, he or she shall be dismissed from the corrective labour service."

204. Strict compliance with the law in the execution of sentences of imprisonment, exile, deportation or corrective labour without imprisonment is supervised by the Procurator-General and his staff in accordance with the Office of the Procurator Act (article 11 of the Corrective Labour Code).

205. Substantial steps to improve conditions of imprisonment and to extend the rights of convicted persons within the penitentiary system have been taken at Ministry of Justice corrective labour establishments in the past few years.

206. In 1993, Azerbaijan became the first country in the Commonwealth of Independent States to transfer responsibility for the enforcement of criminal penalties from the Ministry of Internal Affairs to the Ministry of Justice.

207. With a view to bringing the law into line with international standards, United Nations conventions and European Union recommendations, the Milli Mejlis on 7 February 1997 passed an Act, the Corrective Labour Code. The Act provides for the following substantial improvements in the conditions in which convicted persons are held within the penitentiary system:

1. In the field of human rights:

(a) Visits from representatives of the mass media and of public and international organizations, lawyers, relatives and friends;

(b) Celebration of religious rites; medical services; changes of penitentiary regime;

2. In the field of improved conditions of imprisonment:

(a) The amount of money a prisoner may spend on food and basic necessities is increased:

1. For "general regime" prisoners: to twice the minimum wage;

2. For "intensive regime" prisoners: to the equivalent of one minimum wage;

3. For "strict regime" prisoners: to the equivalent of one minimum wage.

(b) The number of visits allowed per year is increased, as follows:

1. "General regime": short visits, increased from 3 to 48; long visits, from 2 to 4;

2. "Intensive regime": short visits, from 2 to 24; long visits, from 2 to 3;

3. "Strict regime": short visits, from 2 to 12; long visits, from 1 to 2.

(c) The number of parcels (including those delivered by hand or by book post) allowed per year is increased as follows:

1. "General regime": from 3 to 48;

2. "Intensive regime": from 2 to 24;

3. "Strict regime": from 1 to 12.

208. Subject to good conduct and a conscientious attitude to work, a prisoner may be granted improved conditions of detention after serving not less than one third of the sentence (general regime), one half (intensive regime) or two thirds (strict regime).

209. In this event, the prisoner, depending on the regime, may spend a still greater amount of money on food and may receive still more visits and parcels.

210. Convicts serving sentence in a corrective labour or general regime colony are allowed to leave the colony for a period of annual furlough.

211. In addition, under the law in force, convicted persons, depending on the gravity of their crimes and the length of their sentences, may obtain a change of regime by judicial decision after serving one third, one half or two thirds of the sentence, as follows:

- They may be given early release on parole;

- They may be released on parole, subject to an obligation to work outside the corrective labour establishment; or

- They may be transferred to a "colony settlement" with the right to reside in separate rented accommodation with their families and to travel freely within the administrative area where the settlement is situated.

212. There are approximately 16,500 convicts (235 per 100,000 inhabitants of Azerbaijan) serving sentences in corrective labour establishments of all three categories (general, intensive and strict).

213. In terms of numbers of convicts per 100,000 inhabitants, Azerbaijan ranks among the lowest in the Commonwealth of Independent States.

214. Every year since 1995, convicted offenders have been released from punishment in Azerbaijan by Presidential pardons and by amnesties ordered by the Milli Mejlis (Parliament).

215. The following have been granted Presidential pardons:

In 1995: 1,207 persons;

In 1996: 328 persons;

In 1997: 165 persons;

In the first half of 1998: 81 persons.

The numbers released under amnesties proclaimed by Parliament are as follows:

In 1996: 8,723;

In 1997: 3,107;

In 1998: 7,715.

216. Thus it may be seen that the State takes a humane attitude to persons who have committed socially dangerous acts.

217. In the year and a half following the promulgation of the Act of 7 February 1997 amending the Corrective Labour Code, all the provisions intended to improve prisoners' living conditions and expand their rights were put into effect by the Government and, in particular, the Ministry of Justice, despite the country's difficult economic situation.

218. All these changes took place with direct input from international, governmental and non-governmental organizations, which regularly visit the Republic's corrective labour establishments.

219. Today, prisoners in corrective labour establishments are provided with all necessary facilities for the celebration of religious rites, for telephone contact with all their relatives and friends, and for receiving a secondary, special secondary or higher education.

220. In addition, convicted persons are granted short-term leave to visit relatives on personal family grounds.

221. The role of the procuratorial bodies

Under the Office of the Procurator Act, the Procurator-General of the Azerbaijan Republic and his Office's Execution of Sentences Supervisory Division regularly monitor compliance with the law in places of imprisonment and in the enforcement of penalties not entailing imprisonment or other compulsory measures.

222. In monitoring compliance with the law on behalf of the State, the Procurator must take steps to discover and to eliminate in good time any violations of the law, by whomever committed, restore rights that have been violated and bring the perpetrators to justice in accordance with the law (article 11 of the Corrective Labour Code).

223. The Supervisory Division holds monthly "surgeries" for prisoners in each corrective labour establishment under its control, receives applications and complaints in writing, and checks whether prisoners have been lawfully assigned to solitary confinement as a punishment for breaches of the prison rules.

224. Pre-trial detention is defined in criminal procedural law as a preventive measure taken against an accused, or defendant or suspect in a crime punishable by imprisonment (such matters are regulated by section 10, chapter 36, articles 427 to 445, of the Code of Criminal Procedure).

225. The procedure governing pre-trial detention is laid down in the Regulations on pre-trial detention.

This procedure also extends to persons in custody who have been convicted but whose sentences have not yet become enforceable.

Where individuals in pre-trial detention are held in a remand centre for up to 72 hours, they are covered by the Regulations on short-term detention of persons suspected of a crime.

Persons taken into custody may not be kept in detainee holding areas for longer than 72 hours. If they cannot be transferred to a remand centre because of distance or lack of suitable means of transport, they may be kept in detainee holding areas for up to 10 days (article 427 of the Code of Criminal Procedure).

226. The following may serve as grounds for pre-trial detention: a decision by the investigator or person conducting an initial inquiry with the approval of the procurator; a decision of the procurator; or a court decision or determination to apply custody as a preventive measure in accordance with Azerbaijani criminal and criminal procedure law (article 429 of the Code of Criminal Procedure).

ARTICLE 12

227. Article 12 of the Convention requires each State Party to ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

228. In Azerbaijan, the authorities whose competence extends to the issues covered by the Convention are the following:

(i) The courts of the Azerbaijan Republic;

(ii) The Office of the Procurator;

(iii) The national security authorities;

(iv) The internal affairs authorities.

229. <u>The right to bring complaints</u>

All victims of cruel treatment, abuse of authority or excessive use of coercive measures have the right to bring complaints, which the authorities are obliged to accept.

230. On the basis of article 57 of the Constitution, citizens of Azerbaijan have the right to apply in person or to submit individual or collective applications in writing to government authorities. A reply in writing must be given to each application in accordance with the procedure and within the time limits established by law.

Citizens have the right to criticize the activities and quality of work of government authorities and officials, political parties, trade unions, other public associations and individual citizens. Persecution for criticism is prohibited.

231. Article 60 of the Constitution guarantees judicial protection of everyone's rights and freedoms. Everyone has the right to challenge in a court of law the decisions and actions (or inaction) of State authorities, political parties, trade unions, and other public associations and officials.

232. Under article 61, everyone has the right to qualified legal assistance. The article specifies that everyone has the right to the assistance of legal counsel from the moment he (or she) is detained, arrested or charged with a crime by the competent State authorities.

233. Article 5 of the Citizens' Applications (procedure for consideration) Act of 10 June 1997 stipulates that government authorities, institutions, organizations and enterprises must, in accordance with the procedure defined by the Constitution and the law, ensure citizens are able to exercise their right to submit proposals or applications orally or in writing and to bring complaints against incorrect actions (or lack of action) on the part of officials.

Government authorities, institutions, organizations and enterprises, their chiefs and other officials are in duty bound to accept citizens' proposals, applications and complaints and, within the limits of their authority and according to the procedures and within the time limits defined by the Act, to consider and answer them and take appropriate action.

234. Article 11 of the Act provides that "Government authorities and chiefs of enterprises, institutions and organizations shall be responsible for accepting and considering citizens' proposals, applications and complaints. Officials found guilty of infringing the established procedure for the consideration of citizens' proposals, applications and complaints or of persecuting citizens for bringing complaints or for the criticisms contained therein, shall be held administratively, civilly or criminally liable as prescribed by law".

235. Police organs

The Ministry of Internal Affairs has a special personnel division which investigates members of the police who commit or condone illegal acts against citizens.

236. For example, in the Khanlar police district, one member was dismissed from Ministry service and four received disciplinary punishment during the first six months of 1998 for infringing citizens' rights and freedoms.

237. The Ministry also has a complaints and registration section, which receives complaints and applications from citizens.

Disciplinary punishments within
Ministry of Internal Affairs organs, 1997-1998

Indicators of the disciplinary situation within Ministry of Internal Affairs organs	1997	1998
Breaches of discipline	2 439	2 508
Numbers punished	2 537	2 398
Officers	1 103	976
Rankers and NCOs	1 434	1 422
Punishments imposed for:		
Breaches relating to citizens' complaints and applications	107	93
Improper conduct	85	94
Other infringements	940	926
Numbers dismissed on adverse grounds	250	203
Officers	48	42
Rankers and NCOs	202	161

238. Disciplinary punishments of warders at penitentiary establishments

Under the Office of the Procurator Act, the Procurator and the Supervisory Division regularly conduct general and specific checks at corrective labour establishments.

239. Where such checks reveal that infringements have occurred, steps are taken to remedy them and the officials responsible are held to account.

240. As a result of such checks, 6 officials were disciplined in 1997 and 15 in the first half of 1998.

Also in the first half of 1998, one official faced criminal proceedings and was eventually convicted of bribe-taking.

Three persons subjected to disciplinary penalties in 1997 and one in the first half of 1998 had their punishments annulled as illegal.

241. However, checks by the Procurator have not revealed any cases of torture or cruel and inhuman treatment of convicted persons on the part of corrective labour establishment staff, with the exception of one act of degrading treatment.

242. The Supervisory Division received 278 complaints and applications from convicted persons and their relatives in 1997, and 188 complaints in the first half of 1998.

243. Most of these cases were settled directly by the Office of the Procurator, which took appropriate action in response and replied to the applicants in writing.

244. In 1997, for example, K.B. Ismailov, a warder at Corrective Labour Colony No. 11 of the Ministry of Justice's Central Directorate for the Execution of Court Decisions, caused minor bodily harm to a convict with whom he was not on good terms. The Office of the Procurator brought criminal proceedings, and Ismailov was eventually sentenced to three years' imprisonment by the Binagadin district court in Baku.

ARTICLE 13

245. Article 13 of the Convention requires each State party to ensure that any individual who alleges he has been subjected to torture has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities.

246. The State requires its competent authorities to conduct prompt and impartial investigations, both parties being provided with extensive legal safeguards.

247. Under article 60 of the Constitution, everyone's rights and freedoms before the courts are guaranteed. Everyone can challenge in a court of law the decisions and actions (or inaction) of State authorities, political parties, trade unions, and other public associations and officials.

248. In particular, article 104, "Motives and grounds for instituting criminal proceedings", of the Code of Criminal Procedure lists complaints by citizens among the motives for bringing a criminal action.

249. Article 105, "Criminal proceedings instituted solely on the basis of a victim's complaint", contains a list of crimes in connection with which criminal proceedings can be instituted solely on the basis of a victim's complaint, including proceedings under articles 106 and 108 (1) (for further details, see paragraphs 109 and 110 of this report relating to article 4 of the Convention).

250. We believe we should describe the implementation of article 13 of the Convention by the Ministry of National Security, the government authority within whose competence the matters covered by the Convention fall.

251. The matters covered by the Convention are dealt with at the Ministry by the Department of Investigations and the remand centre.

252. During the period 1997-1998, no cases consistent with the definition of "torture" given in article 1 (1) of the Convention occurred in any unit of the Ministry of National Security.

253. Over the past five years the Department of Investigations has not investigated criminal cases relating to crimes consistent with the definition of torture given in article 1, paragraph 1, of the Convention because, under the law, such crimes do not fall within its competence.

254. No cases involving acts referred to article 1, paragraph 1, of the Convention have occurred in the course of investigations conducted by Department staff.

255. Strict compliance with the law in the investigation of criminal cases features in the annual work plans and is regularly discussed on advanced professional training courses.

256. No reports of conduct capable of causing pain or physical or mental suffering during interrogations have been received by the Department of Investigations from the Ministry administration or other senior authorities. The inadmissibility of such acts has been pointed out on repeated occasions.

257. At the same time, it should be noted that the Department has received complaints of the use of physical and mental pressure by interrogators and police force members, at various periods, from certain accused persons (in particular, Ramazanov Avyaz Agababa ogly, Agayev Rassim Gusein ogly and Agalarov Mirzali Ali ogly).

258. These complaints have been carefully checked on each occasion, but the reported facts have not been confirmed and the complaints have been dismissed as unfounded.

259. On the subject of action taken by Azerbaijan in recent years to prevent inhuman or degrading forms of treatment or punishment, note should be taken of the Act of 10 February 1998 abolishing the death penalty.

260. The Presidential Decree of 22 February 1998 on steps to ensure the enjoyment of human and civil rights and freedoms, together with other measures in the same field, requires law enforcement organs to take steps to improve the conditions in which persons serving sentences of imprisonment and in pre-trial detention are held.

261. The Ministry of National Security's remand centre is run in strict compliance with the laws in force and with the USSR Committee on State Security (KGB) Instructions on the organization of service in remand centres.

262. How arrested persons are held in the remand centre, and whether their detention is legal, is checked monthly by staff of the department in the Office of the Procurator overseeing law enforcement in national security organs and the armed forces; the situation overall is in conformity with requirements.

263. The only complaint received during the period 1997-1998 was from Guseinov Suryat Davud ogly, a detainee in the remand centre, and one of his defence counsel, Arif Shammamedov, claiming that centre staff were exerting

mental pressure on Guseinov using radio equipment, insulting him and his relatives over the radio, injecting some kind of gases into his cell and placing a dead dog in front of the door to his cell.

264. These statements by Guseinov and his counsel were carefully checked in April 1998 by a commission set up for the purpose, whose members included members of the Military Procurator's Office, experts from a radio factory and doctors from the Sabail district epidemiological department in Baku; Guseinov's second defence counsel, the lawyer Vyacheslav Kalinikovich Tsynbal, attended the discussions.

265. None of the facts alleged in Guseinov's statement was confirmed and the lawyer Tsynbal, Guseinov's defence counsel, stated in the presence of all members of the commission that he was satisfied with the manner in which his client was being held in the centre and had no claim to make against the staff in that respect.

ARTICLE 14

266. Article 14 of the Convention provides that each State Party shall ensure in its legal system that a victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible.

267. Article 68 of the Constitution sets forth the right to demand compensation for damage in the following terms:

> "1. The rights of a person who has been a victim of a crime or of abuse of power shall be protected by law. A victim shall have the right to participate in court proceedings and to claim compensation for damage caused.
>
> "2. Everyone shall have the right to receive compensation from the State for damage caused as a result of unlawful acts or failure to act on the part of government authorities or officials."

Azerbaijani law provides for different ways in which victims of violence can receive compensation. The general rule in this respect is to be found in the Civil Code, which provides that a party which, intentionally or by negligence, causes damage to another party must make restitution for the damage done.

268. <u>Civil liability for a crime</u>

Article 135 of the Code of Criminal Procedure states:

> "The investigator must explain to an individual who has suffered material damage as a result of a crime, or to his representative, his right to bring a civil action against the accused.

"Such explanation shall be given either orally, mention thereof being made in the transcript of the victim's interrogation, or in the form of a written statement, a copy of which shall be placed on the file.

"If a victim brings a civil action, the investigator must issue a decision accepting or rejecting the victim as a civil plaintiff. The investigator's decision shall be made known to the person bringing the action.

"An appeal against the investigator's decision to reject a victim as a civil plaintiff may be lodged with the procurator."

The investigator is entitled, upon application by a civil plaintiff or on his own initiative, to take steps in furtherance of a civil action that has been or may be brought in connection with a criminal case, having issued a decision to that effect (article 136 of the Code of Criminal Procedure).

269. In the event of a civil action being brought, the investigator must ascertain who bears material liability. If, by law, material liability is borne not by the accused but by other persons, enterprises, institutions or organizations, the investigator must in his decision cite them as civil respondents, inform them of this decision, and explain their rights to them (article 137 of the Code of Criminal Procedure).

270. In cases involving a crime for which the Criminal Code prescribes confiscation of property, the investigator must take steps to ensure the execution of any sentence ordering confiscation of property, having issued a decision to that effect (article 138 of the Code of Criminal Procedure).

271. In furtherance of a civil action or possible confiscation of property, the investigator must distrain the property of the accused or suspect, those liable at law for the actions of the accused or suspect, or such other persons as are in possession of property acquired by criminal means.

Distraint of property may be cancelled by decision of the investigator should it become unnecessary (article 139 of the Code of Criminal Procedure).

272. If criminal proceedings are discontinued because no crime has been committed, because there was no criminal element in the act committed, or because there is no proof of a citizen's involvement in the crime, or if the court returns a judgement of acquittal, the entity conducting the initial inquiry, the investigator, the procurator and the court must explain to the citizen the procedure for restitution of his rights and make restitution, as provided by law, for the damage caused by his wrongful conviction, prosecution and/or pre-trial detention. The conditions and procedure governing compensation are determined by law (article 21, paragraph 1, of the Code of Criminal Procedure).

Compensation for victims

273. The obligations arising out of injury are specified in Chapter 42, articles 442-467, of the Civil Code.

274. A party causing injury to a citizen, a citizen's property, or an organization, is liable for full compensation of the injury caused.

A party causing injury is released from the liability to compensate if it can prove that the injury was not its fault.

Compensation for injury caused by lawful acts is payable only in the cases specified by law (article 442 of the Civil Code).

275. An organization must make restitution for injuries caused through the fault of its employees in the exercise of their duties (article 443 of the Civil Code).

276. All government institutions bear equal liability for injuries caused to individual citizens by incorrect administrative actions on the part of their officials (articles 442 and 443 of the Civil Code) unless otherwise provided in ad hoc legislation. They may be held liable for injuries caused by their officials to organizations as provided by law.

In the event of injury caused by incorrect actions on the part of officials in the entities conducting initial inquiries, the Procurator's Office or the courts, the relevant authority bears liability in the circumstances and within the limits specified by law (article 444 of the Civil Code).

277. Parties that jointly cause injury are jointly liable to their victims (article 452 of the Civil Code).

278. The Civil Code includes the following articles:

Article 456 "Compensation for injury to health";

Article 457 "Responsibility for injuring the health or causing the death of a citizen for whom the party responsible is obliged to pay insurance premiums";

Article 458 "Responsibility for injuring the health or causing the death of a citizen for whom the party responsible is not obliged to pay insurance premiums";

Article 459 "Compensation for damage involving injury to the health of a citizen not in receipt of an allowance or pension";

Article 461 "Compensation in the event of injury to the health of a citizen not subject to social insurance";

Article 462 "Compensation in the event of injury to the health of a citizen below the age of 15 years";

Article 467 "Compensation of funeral expenses".

ARTICLE 15

279. *Article 15 of the Convention specifies that each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.*

280. Appropriate provision has been made at the highest level of Azerbaijani legislation to prohibit the use of evidence in violation of the law.

281. Article 63 of the Constitution states:

"1. Everyone has the right to presumption of innocence. Anyone accused of committing a crime shall be considered innocent until he is proven guilty as specified by law and a court decision to that effect has become enforceable.

"2. In the event of justifiable doubt as to a person's guilt, a verdict of guilty may not be returned.

"3. A person charged with a crime shall not be obliged to prove his innocence.

"4. Evidence obtained in violation of the law may not be used in the administration of justice.

"5. No one may be said to be guilty of a crime in the absence of a court decision."

282. Article 64 of the Code of Criminal Procedure stipulates:

"The evidence in criminal cases comprises any factual data on the basis of which the entity conducting the initial inquiry, the investigator and the court determine whether or not a socially dangerous act has been committed, whether the person committing such an act is culpable, and other matters having a bearing on the proper handling of the case.

"Such data shall be established by means of witnesses' testimony, the testimony of the victim, of the suspect, and of the accused, expert findings, material evidence, the official records of the investigative and judicial proceedings, and other documentation."

283. Article 177 of the Penal Code relates to offences against justice, and calls for punishment for "coercion to give evidence, i.e. coercion to give evidence under interrogation by means of threats of violence or other illegal actions on the part of the person conducting the interrogation or preliminary investigation, or the same actions combined with the use of violence or humiliation of the individual undergoing interrogation".

284. Reference must also be made to article 180 of the Penal Code, which makes it a punishable offence to "coerce accused persons, witnesses, victims, experts or interpreters to give false testimony, false conclusions or

inaccurate translations by threatening them or their immediate families with death, violence, or destruction of property with a view to perverting the course of justice, or to make such threats in revenge for earlier testimony". It is a punishable offence to "suborn the said persons into giving false evidence, findings or wrong translations".

ARTICLE 16

285. *Article 16 of the Convention seeks an undertaking from every State Party to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.*

286. The same punishment is applicable in Azerbaijan to other cruel, inhuman or degrading treatment or punishment as to torture. Hence what has been said above about torture generally relates to this matter as well. The obligations stated in articles 10, 11, 12 and 13 of the Convention apply under the same conditions.

287. Azerbaijani legislation prohibits any conduct that could be described as cruel, inhuman or degrading.

288. In the case of actions by State bodies not subject to criminal liability, disciplinary action is taken against the authorities responsible for overseeing their activities.

289. It should be pointed out that there is a certain similarity between part 1, article 16, of the Convention and International Labour Organisation (ILO) Convention 29, the Convention concerning Forced or Compulsory Labour 1930, which Azerbaijan has ratified along with other international agreements.

290. It is also important to stress that under the ILO Charter, Azerbaijan reports annually to the International Labour Office on its compliance in national practice with the conventions and recommendations it has ratified.

291. Another important ILO Convention, No. 105, the Convention concerning the Abolition of Forced Labour 1957, is now before the appropriate authorities for consideration with a view to ratification.

292. Under the Azerbaijani Constitution (art. 35), no one may be forced to perform labour. Assignment to forced labour may be permitted on the basis of a court decision: the conditions and duration are prescribed by law. Individuals may be required to perform labour pursuant to the orders of those in authority while in military service, and citizens may be required to do specified kinds of work during states of emergency or martial law.

293. Under article 8 of the Individual Labour Agreements (Contracts) Act of 21 May 1996, forced labour, i.e. coercion to perform labour by means of violence or threats of punishment, whether under the pretext of improving work discipline or otherwise, is prohibited. Those guilty of imposing forced

labour on a worker are held to account as prescribed by law. Paragraph 2 of the same article of the Act permits forced labour in the case of tasks carried out under the supervision of the appropriate State authorities in accordance with current legislation in the event of the declaration of martial law or a state of emergency, or in execution of an enforceable court decision.

294. Article 36 of the Act states: "Individuals guilty of violating workers' labour rights as specified in this Act shall be liable to disciplinary and criminal proceedings as established by law."

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